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| APPLICATION NO. | FII | LING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
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| 22442 | 7590 | 06/17/2003 | | | | |
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| 1560 BROADWAY SUITE 1200 | | | | HARTMAN | RTMANN, GARY S | |
| DENVER, CO 80202 | | | | ART UNIT | PAPER NUMBER | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

| Application No. Applicant(s) Applicant(s) Applicant(s) Examiner Cany Hartmann Sir1 Sir | y N | | | | | | | |
|--|--|--|---|--|--|--|--|--|
| Examiner Gary Hartmann - The MAILING DATE of this communication appears on the cover sheet with the correspond nee address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of time may be available under the protestors of 3° CFR 1.156(a). In one event, however, may a neyby be timely filled If the period for reely is pecified above, the machinem statistics period will supply and will expire SIX (6) MONTHS from the mailing date of this. If No period for reely is pecified above, the machinem statistics period will supply and will expire SIX (6) MONTHS from the mailing date of this communication. If No period for reely is pecified above, the machinem statistics period will supply and will expire SIX (6) MONTHS from the mailing date of this communication. If No period for reely is pecified above, the machinem statistics period will supply and will expire SIX (6) MONTHS from the mailing date of this communication. Any reply received by the Office Marth and here montions there the mailing date of this communication, even if timely filled, may reduce any settled. All properties of this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1.22 is/are pending in the application. 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration. 5) Claim(s) 1.20 is/are rejected. 7) Claim(s) 1.20 is/are rejected. 7) Claim(s) 1.20 is/are rejected. 10) The proposed drawing correction filled on 1.10 is an explication of the proposed drawing or requirement. Application Papers 9) The specification is objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The proposed drawing correction filled on 1.10 is a publication for the priodity documents have been received. 1.10 The proposed drawing | | Application No. | Applicant(s) | | | | | |
| Carry Hartmann S371 | | 10/043,693 | BARRETT ET AL. | | | | | |
| - The MAILING DATE of this communication appears on the cover sheet with the correspond noe address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Estendinos of tom may be swillaw under the precisions of 3 CFR 1.136(a), in no event, however, may a reply be timely filled to the continuous of the processor of the communication of 1 CFR 1.136(a), in no event, however, may a reply be timely filled to the processor of the communication of 1 CFR 1.136(a) in no event, however, may a reply be timely filled to reply septicide above is less than lithing (20) steps, a reply within the statutiony minimum of thinty (30) days, will be condidered finely, if the processor of the reply specified above is less than lithing (20) steps, a reply within the statution of the processor of the communication of the com | Office Action Summary | Examiner | Art Unit | | | | | |
| Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edinations of time may be available under the provisions of 37 CPR 1.38(a). In no event, however, may a reply be limitely filled Etherprised for reply is available under the provisions of 37 CPR 1.38(a). In no event, however, may a reply be limitely filled Etherprised for reply as available under the provisions of 37 CPR 1.38(a). In no event, however, may a reply be limitely filled Etherprised for reply as period above, the maximum statutory period will apply add valid capte St. (6) Mo3/118 from the maining date of this communication of the | | • | | | | | | |
| THE MAILING DATE OF THIS COMMUNICATION. Edemisms of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of the communication. If the protod reply specified above is less than thing (70) days, a reply within the abutory minimum of thiny (30) days will be considered fromly. If the protod corrected by the Office loss is less than thing (70) days, a reply within the abutory minimum of thiny (30) days will be considered fromly. If the protod corrected by the Office and the then there mornisms will be supplied to the protod of the communication, even if timely (filed, may reduce any searched patent term adjustment. See 37 CFR 1.70(b). Status 1) Responsive to communication(s) filled on | | ears on the cover sheet with the c | orrespond nce address | | | | | |
| 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-23 is/are pending in the application. 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 1-20 is/are rejected. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). b) Notice of Informal Patent Application (PTO-152) | THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | 6(a). In no event, however, may a reply be tim within the statutory minimum of thirty (30) days ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONED | ely filed s will be considered timely. the mailing date of this communication. O (35 U.S.C. § 133). | | | | | |
| 3 | 1) Responsive to communication(s) filed on | | | | | | | |
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| · · · · · · · · · · · · · · · · · · · | 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) Notice of Informal P | | | | | | |

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-20, drawn to an abutment, classified in class 14, subclass 26.
 - Claims 21-23, drawn to a method of constructing a bridge abutment, II. classified in class 14, subclass 77.1.
- 2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the invention could be made by inserting a prefabricated one piece unit into position and then backfilling.

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- During a telephone conversation with Brent P. Johnson on June 10, 2003 a provisional 4. election was made with traverse to prosecute the invention of I, claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 21-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 5, 8-13, 15 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Vidal (U.S. Patent 3,981,038). Vidal discloses an abutment having a facing wall, sill, and lateral containment walls connected to and extending perpendicularly from the sill (see Figure 1). Regarding the limitations of design, it is deemed to be inherent that the abutment would have been designed to conform to loads anticipated, since failure would likely result otherwise. Further, note that the limitation of "considering" is not only a standard design practice, but also appears to be a method limitation that does not further limit an apparatus claim.

Vidal teaches wing walls (18, 20, 22) extending laterally away from the sill with stabilized earth filling the gaps therebetween.

Figure 1 shows a lower concrete reinforcement abutting the sill (at the lower end thereof) and extending laterally away from the sill.

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There is a bearing member (12) resting on the sill.

The sill meets the recitations of reinforced concrete.

Claim Rejections - 35 USC § 103

- 8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 9. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Vidal as applied above, and further in view of Geisel (U.S. Patent 571,225). Vidal is silent regarding piles. Geisel teaches using piles (11, 12) extending into and below a concrete abutment in order to secure the abutment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the piles of Geisel with Vidal for this purpose.
- 10. Claims 6, 7, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vidal as applied above, and further in view of Vidal (U.S. Patent 4,564,967). Vidal '038 does not teach the pile. Vidal '967 teaches a pile (2) connected to an abutment wall and extending from above ground to below ground (Figure 1, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used this configuration with Vidal '038 in order to obtain a desired amount of structural stability, as is standard design practice.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

gh June 11, 2003

> Gary Hartmann Primary Examiner Art Unit 3671